

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERNEST MILLER,

Plaintiff,

v.

THEODORE KUBICKI, et al.,

Defendants.

No. 1:20-cv-00812-DAD-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 12)

Plaintiff Ernest Miller is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action on May 28, 2020 in the United States District Court for the Northern District of California. (Doc. No. 1.) On June 11, 2020, the case was transferred to the Eastern District. (Doc. No. 4.) This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 25, 2020, plaintiff filed a motion to proceed *in forma pauperis*.¹ (Doc. No. 10.) On June 29, 2020, the assigned magistrate judge issued findings and recommendations recommending that plaintiff's application to proceed *in forma pauperis* be denied pursuant to 28 U.S.C. § 1915(g) and that plaintiff be required to pay the \$400.00 filing fee in full to proceed with this action. (Doc. No. 12.) Those findings and recommendations were served on plaintiff and

¹ Plaintiff has also filed two additional motions to proceed *in forma pauperis*. (Doc. Nos. 13, 15.)

1 contained notice that any objections thereto were to be filed within fourteen (14) days after
2 service. (*Id.* at 3.) Plaintiff filed objections on July 9, 2020. (Doc. No. 14.)

3 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C) and Local Rule 304, this
4 court has conducted a de novo review of the case. Having carefully reviewed the entire file,
5 including plaintiff's objections, the court concludes that the findings and recommendations are
6 supported by the record and proper analysis.

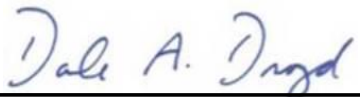
7 In his objections, plaintiff does not present any additional arguments or facts in opposition
8 to the findings and recommendations. Rather, plaintiff states that he never received court
9 documents served on June 11, 2020, which included an order to submit an IFP application. (Doc.
10 No. 14 at 1.) Plaintiff also states that another prisoner has been receiving his mail and requests
11 that he receive copies and an order from the court allowing him to spend his money to purchase
12 stamps, envelopes, and pencils from the prison store. (*Id.*) Plaintiff's objections do not dispute
13 that he is ineligible for *in forma pauperis* status because he has previously suffered the strike
14 dismissals of actions he has filed. Nor does he argue that he is in imminent danger. Thus,
15 plaintiff's objections provide no basis to question the analysis set forth in the pending findings
16 and recommendations.

17 Accordingly,

- 18 1. The findings and recommendations issued on June 29, 2020 (Doc. No. 12) are
19 adopted in full;
- 20 2. In accordance with 28 U.S.C. § 1915(g), plaintiff's applications to proceed *in*
21 *forma pauperis* (Doc. Nos. 10, 13, 15) are denied; and
- 22 3. Within twenty-one (21) days following the date of service of this order, plaintiff
23 shall pay the \$400.00 filing fee in full to proceed with this action. If plaintiff fails
24 to pay the filing fee within the specified time, this action will be dismissed.

25 IT IS SO ORDERED.

26 Dated: August 14, 2020

27 
UNITED STATES DISTRICT JUDGE